IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH AT HYDERABAD

HON'BLE Mr. JUSTICE R. SUBHASH REDDY

Writ Petition No.15131 of 2000

WEDNESDAY, THE THIRTEENTH DAY OF JUNE TWO THOUSAND AND SEVEN

Between:

M/s. Kalepally Bros., rep. by its Proprietor
K. Srinivas Rao, S/o. K. Vittal Rao, aged about
38 years, R/o.1-1-254, Chikkadapally,
Hyderabad – 20.

… Petitioner

And

The Municipal Corporation of Hyderabad, rep. by its
Commissioner, Tankbund Road, Hyderabad, and another.

… Respondents

Order:

In this Writ Petition, petitioner has questioned the notice dated 22-04-2000, issued by the second respondent in Rc.No.549/Advt/MCH/2000, in exercise of powers under Section 421 of the Hyderabad Municipal Corporation Act, 1955 ('the Act' for brevity).

2. Petitioner is a proprietary concern selling clothes in the premises bearing D.No.1-1254, Chikkadapally. For the purpose of its business, the board containing the wording "KALLE PALLY BROTHERS KANCHI & GADWAL SAREES" was exhibited on the parapet wall of the shop. The case of the petitioner is that though the said board has been exhibited for business purpose, but, it is not an 'advertisement' within the meaning of Section 420 and 421 of the Act. However, respondents have issued notice quantifying the advertisement fees at Rs.20,500/- and directed it to pay the said amount, by way of the impugned notice, within a period of seven days from the date of receipt of the notice. In the impugned notice, it is also stated that if the said amount is not paid within the time stipulated, action will be initiated as per the provisions of the Act.

3. The case of the petitioner is that the said name board has been affixed to the parapet wall of the shop, only for business purpose and hence the same can neither be considered as 'Sky sign' nor as an 'Advertisement'. It is also alleged that the impugned notice has been issued without giving any opportunity.

4. This court, while admitting the Writ Petition, by order dated 17-08-2000, in W.P.M.P.No.19195 of 2000, stayed the operation of the impugned notice. Though the Writ Petition is of the year 2000, no counter affidavit has been filed till date and the interim order of this court referred above has been continuing all along.

5. A reading of Section 421 (1) of the Act would make it clear that permission is required to be obtained from the Commissioner to erect, exhibit, fix or retain any advertisement whether now existing or not, upon any land, building, wall, hoarding or structure. However, as per

the proviso, such permission shall not be necessary in respect of any advertisement, which is neither an illuminated advertisement nor a sky-sign and which is exhibited within the window of any building and relates to the trade or business carried on within the land or building upon which such advertisement is exhibited or to any sale or letting of such land or building or any effects therein. Though permission is necessary for erection of an advertisement on any land or building, however, such permission is not necessary if the same relates to the trade or business carried on within the land or building upon which such advertisement is exhibited.

6. When it is the case of the petitioner that the board exhibited by it can neither be construed as a sky-sign nor as an advertisement, falling within the meaning of Section 420 and 421 of the Act, and in the absence of issuing any opportunity or notice before issuing the impugned demand, I deem it appropriate to set aside the notice dated 22-04-2000 and it is accordingly set aside. However, it is kept open to the respondents to decide as to whether the name board, which is exhibited by the petitioner, is an Advertisement within the meaning of Section 420 and 421 of the Act. If the respondents are of the view that it is an Advertisement, they shall issue prior notice and opportunity of hearing to the petitioner, and pass appropriate orders.

7. The Writ Petition is allowed to the extent indicated above. No order as to costs.

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JUSTICE R. SUBHASH REDDY.

June 13, 2007

MRR